

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA,	.	CASE NO. 4:22-CR-577-8
	.	CASE NO. 4:22-MJ-2398-05
PLAINTIFF,	.	
	.	
V.	.	HOUSTON, TEXAS
	.	THURSDAY, OCTOBER 27, 2022
EMERY GOODLEY	.	01:31 P.M. TO 02:28 P.M.
	.	
DEFENDANT.	.	
• • • • •	.	

PRELIMINARY EXAMINATION/DETENTION HEARING

BEFORE THE HONORABLE SAM S. SHELDON  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES: SEE NEXT PAGE

ELECTRONIC RECORDING OFFICER: MAYRA M. MARQUEZ

CASE MANAGER: SHANNON JONES

OFFICIAL INTERPETER: NONE PRESENT

TRANSCRIPTION SERVICE BY:

TRINITY TRANSCRIPTION SERVICES  
1081 Main Street  
Surgoinsville, TN 37873  
281-782-0802  
battshott@aol.com

Proceedings recorded by electronic sound recording;  
Transcript produced by transcription service.

TRINITY TRANSCRIPTION SERVICES

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA,	.	CASE NO. 4:22-CR-577-8
	.	CASE NO. 4:22-MJ-2398-05
PLAINTIFF,	.	
	.	
V.	.	HOUSTON, TEXAS
	.	THURSDAY, OCTOBER 27, 2022
EMERY GOODLEY	.	01:31 P.M. TO 02:28 P.M.
	.	
DEFENDANT.	.	
.	.	
UNITED STATES OF AMERICA,	.	CASE NO. 4:22-MJ-2398-02
	.	
PLAINTIFF,	.	
	.	
V.	.	
	.	
MARKEL BROWN,	.	
	.	
DEFENDANT.	.	
.	.	
UNITED STATES OF AMERICA,	.	CASE NO. 4:22-MJ-2398-07
	.	
PLAINTIFF,	.	
	.	
V.	.	HOUSTON, TEXAS
	.	
TRAVONTE ARDOIN,	.	
	.	
DEFENDANT.	.	
.	.	

PRELIMINARY EXAMINATION/DETENTION HEARING

BEFORE THE HONORABLE SAM S. SHELDON  
UNITED STATES MAGISTRATE JUDGE

Appearances: (See next page)

Appearances:

**For the GOVERNMENT:**

**LISA MARIE COLLINS, ESQ.**

Assistant United States Attorney  
Office of the United States  
Attorney  
1000 Louisiana, Suite 2300  
HOUSTON, TX 77002

**For DEFENDANT GOODLEY:**

**ROBERT FICKMAN, ESQ.**

440 Louisiana St., Suite 200  
Houston, TX 77002

**For DEFENDANT BROWN:**

**BRETT A. PODOLSKY, ESQ.**

Attorney at Law  
917 Franklin Street, Suite 510  
Houston, TX 77002

**DEFENDANT TRAVONTE ARDOIN:**

**MARC C. CARTER, ESQ.**

Attorney at Law  
1001 McKinney Street, Suite 1600  
Houston, TX 77007

**U.S. PROBATION:**

**SERGIO SALINAS**

**UNITED STATES MARSHAL:**

**MARTIN WHITE**

Transcription Service:

Cheryl L. Battaglia  
Trinity Transcription Services  
1081 Main Street  
Surgoinsville, TN 37873

1                   Houston, Texas; Thursday, October 27, 2022; 01:31 p.m.

2                   **THE COURT:** Okay. Please be seated.

3                   **(Pause in the proceeding.)**

4                   **THE COURT:** 22-MJ-2398, Markel Brown.

5                   Okay. You're here with your attorney, Podolsky. Or  
6 is he -- he's not here yet?

7                   **UNKNOWN FEMALE:** He was just here. (Indiscernible.)

8                   **THE COURT:** Okay. Emery Goodley.

9                   **MR. FICKMAN:** He's present with counsel, your Honor.

10                  **THE COURT:** Okay. And he's here with Mr. Fickman.

11                  And Travonte Ardoin is here with Judge Carter. So  
12 we're all -- okay.

13                  Okay. So we'll wait for -- or -- or we don't -- I  
14 don't think we need Mr. -- so why don't we start with -- all  
15 we're doing is the arguments as to the three.

16                  **MS. COLLINS:** Your Honor?

17                  **THE COURT:** Oh, hold on sec.

18                  Mr. Podolsky just came in. So we're all good.

19                  **MR. PODOLSKY:** Sorry about that, Judge.

20                  **THE COURT:** Okay. Go ahead, Miss Collins.

21                  **MS. COLLINS:** Yes, sir.

22                  Yesterday in the course of questioning of Detective  
23 Bock, there was some questions that I was concerned may have  
24 implied a portion of the proffer was incorrect. Specifically,  
25 there were questions about not having been able to locate the

1 portion of Emery Goodley's statement where he talks about  
2 potentially killing someone.

3 I have spoken to defense counsel with -- both prior  
4 to the hearing. We have located that. We have both heard it.  
5 And I just wanted to read it officially so the Court could  
6 have, you know, no concerns with what was said in the proffer.

7 And I -- I think the defense counsel and I are in  
8 agreement. So I don't think there's any objection to the me  
9 doing so.

10           **THE COURT:** Okay.

11           **MR. FICKMAN:** I don't object to it. I just -- I'll  
12 argue what I need to argue at the appropriate time. We did  
13 listen to it together. And I believe this is an accurate  
14 rendition of what we both heard.

15           **THE COURT:** Okay. Go ahead.

16           **MS. COLLINS:** Yes, sir.

17 Emery states,

18 "If I'm going to do time, I'm going to do  
19 all of it.

20 Officer asks, but why?

21 Emery responds, I know my anger. I'm going  
22 to kill somebody down there. I'm not going  
23 to let nobody play with me.

24 Officer again asks, but why?

25 And Emery responds, I have enemies. I'm

1                   gang related. I know this life."

2                   **THE COURT:** Okay.

3                   **MS. COLLINS:** That's all, your Honor.

4                   **(Pause in the proceeding.)**

5                   **THE COURT:** Okay. So how do we -- is there anything  
6 else with the agent that -- well, okay.

7                   Why don't we go -- who wants to start first with  
8 their -- with their argument? So I'm sorry, Mr. Fickman, let's  
9 proceed like this like we did this morning.

10                  Whatever you want to proffer, you'll go ahead and  
11 proffer. Then make your argument. Then I'll let the next  
12 person go. And then Miss Collins will respond to everybody.

13                  **MR. FICKMAN:** Please the Court.

14                  **THE COURT:** Okay.

15                  **MR. FICKMAN:** I proffer the testimony on behalf of  
16 Emery Goodley of Miss Christy (phonetic) Babenau (phonetic)  
17 who's present. Will you please stand up, ma'am? Okay. Thank  
18 you. You can be seated.

19                  **(Pause in the proceeding.)**

20                  **MR. FICKMAN:** I'm also going to be proffering the  
21 testimony of Micaela (phonetic) Kauffman (phonetic). Would you  
22 stand up, ma'am? Okay. You can be seated. Thank you.

23                  I just wanted the judge to see you all present in the  
24 courtroom.

25                  Your Honor, I'm proffering the testimony of Miss

1 Christy Babenax, the lady on the left. She's a -- lives on  
2 XXXXXXXX XXXXXX XXXXX in Houston, Texas. If the Court wants  
3 her specific address, I'd be happy to be able to provide it,  
4 just a little -- don't want to do it in open court.

5 She's married, husband James. Has two children.  
6 She's 47 years old. By way of background, she's from Houston,  
7 Sterling High School, some college. And she worked for 24  
8 years for Chase Bank as a loan officer.

9 She retired, took an early retirement, so she could  
10 pursue her ministry, which she has working on pursuing right  
11 now. That is, a ministry of the gospel. She attended the  
12 Christway (phonetic) Theological School here in Houston. And  
13 her ministry is about a year old. And that's what she's doing  
14 with her life.

15 Now the reason I'm proffering her, and all the way --  
16 also, your Honor, she's got no prior criminal record and no  
17 drug or alcohol problem.

18 She is the aunt of Emery Goodley. And for the most  
19 part, she and his grandmother raised him. He lives some with  
20 his mother. But he was primarily raised with his grandmother  
21 and his aunt who's here, who's the person I'm proffering.

22 So she's known him his entire life. She's his  
23 maternal aunt. She raised him and his siblings. And as far as  
24 the factors that the Court is to consider under 3142, his  
25 family ties in -- in this area she would say are significant.

1 And the bulk of his family lives in Houston.

2           **THE COURT:** So -- so -- so let me stop you,  
3 Mr. Fickman.

4           Let me say this, the flight is not a concern of mine.  
5 So -- so first, I forgot to mention for you all. Because this  
6 is a double presumption case, there's only, you know, both on  
7 the -- the drugs and the guns.

8           It's your burden, and to rebut that presumption. But  
9 my concern is a danger to the community and not flight risk, as  
10 to any of the Defendants.

11          **MR. FICKMAN:** Oh, and -- and I -- and I will address  
12 that, your Honor.

13          **THE COURT:** Okay.

14          **MR. FICKMAN:** I was trying to give you a little bit  
15 of background of the matter.

16          **THE COURT:** Okay. Sounds good.

17          **MR. FICKMAN:** And I'll answer that, your Honor.

18          **THE COURT:** Okay.

19          **MR. FICKMAN:** Okay. And this -- the proffers are  
20 relatively short.

21          **THE COURT:** Okay.

22          **MR. FICKMAN:** She would testify, just in terms of his  
23 history, that he was a good student. In fact, when she was  
24 raising him when he was 11 years old, he participated in a  
25 national championship of -- that was here in Texas for chess

1 players.

2 I have here Defense Exhibit Number 1 and Number 2.  
3 I've tendered a copy to the State.

4 **THE COURT:** Okay. We'll admit those.

5 **(Goodley Exhibits Number 1 and 2 were received into**  
6 **evidence.)**

7 **THE COURT:** Okay.

8 **MR. FICKMAN:** What they show, your Honor, this is  
9 kind of remarkable, that is that for unrated players, when he  
10 was 11 years, cause that's 11 years ago, he's 22 now. He came  
11 in first in the national championship for sixth graders is the  
12 way I read it. And that's confirmed by his aunt in terms of  
13 her knowledge.

14 So this is a young man of, I would say, above average  
15 intellect. She also confirmed that as he's coming through  
16 school, he want to magnate schools based on his grades. And he  
17 was an honor roll student.

18 So this is an intelligent young man who, I -- I think  
19 it's -- it's important, it does go to dangerousness. Because I  
20 think he has the brain power. While he may say and do -- there  
21 may be some history of him saying and doing some foolish, and  
22 stupid, and potentially dangerous things, he's also an  
23 intelligent young man that has the intellect to comply with  
24 rules. At least has the -- the -- the intelligence to  
25 do that.

1           When he was 13, according to the criminal record, he  
2 got into a juvenile problem. I think he moved out of his  
3 aunt's house, was staying at his mother's house. And the  
4 supervision was not so good there.

5           When he was 14, according to his aunt, he moved back  
6 in with her. And at that time in the ninth grade, he was on  
7 the football team. He was a good student. He did not get in  
8 any trouble.

9           And then when he was 15, he returned living with his  
10 mother. And there if the Court looks at his record when he's  
11 13 and then again when he's 15, he gets in trouble with the  
12 law. Both of those are periods where he's not living with the  
13 aunt, whose testimony I'm proffering.

14           So when he was in a supervised atmosphere, he did  
15 well. He abided by the rules and he actually excelled. When  
16 he was in a more of a unsupervised environment, he did not do  
17 well, as is evident by the record.

18           As in terms of dangerousness, I would argue and  
19 submit that -- that if the Court places him under stringent  
20 conditions, and electronic monitor, and things of that type,  
21 that he would not pose a danger to the community, especially if  
22 his aunt was involved in the conditions. Because with his  
23 aunt, he's always done well.

24           His -- he's 22 years old now. His aunt says she  
25 stayed in touch with him when he got out of on -- at the

1 beginning of this year. He got paroled. But at the beginning  
2 of this year, he was -- he was released.

3 And he stayed in touch with his aunt. She said she  
4 conducts Sunday services at her house where she put together  
5 this ministry. He comes to her house every Sunday, either with  
6 his common law wife or by himself.

7 In this interim, he was actually term is baptized,  
8 but I guess born again. And she would act as in any capacity I  
9 think the Court would ask her to act in, in order to provide  
10 the Court assurances that he would not pose a danger to the  
11 community. In her personal opinion if she was involved in his  
12 life, she does not believe he would pose a danger to the  
13 community. Because in those times in his life that she was  
14 actively engaged with him in his life, he didn't pose a danger  
15 to the community. He excelled and did good things like winning  
16 the first place in 11-year old chess contest.

17 I would next kind of the testimony of -- of Micaela  
18 Koffman. She's 22. She's gainfully employed at Direct TV.  
19 She's attending Calvin (phonetic) Community College. She's  
20 also Reserve Active Duty in the Army National Guard. She's  
21 been in that for four years.

22 She is a -- she's a productive citizen, your Honor.  
23 She's -- everything she's doing is positive and productive.  
24 And she's also serving our country. She is the common law  
25 wife, girlfriend, depending on how one defines it, of Emery

1 Goodley.

2 They live together on XXXXXX XXXXX. And they've been  
3 together since about 2019, prior to his going back into  
4 custody. Then they got back together when he was released  
5 earlier this year, his parole on that -- that case.

6 So he's stayed in jail for a couple years. Then he  
7 was released, and they got back together. They don't have any  
8 kids. She says that he works. Confirmed again family ties.  
9 In the past she confirms his work history as the Court has  
10 before it. And she confirms the rest of the information that I  
11 related to the Court in terms of his -- her knowledge of his  
12 history, since 15 and on. But said he was a quarterback in the  
13 9<sup>th</sup> grade before he got in trouble when he was 15 apparently.

14 There's -- another thing is that when he was in jail,  
15 she would testify, to her knowledge he completed his GED. He  
16 got a welder's certificate. He worked on a power plant  
17 certificate. And he also attended Navarro College either in  
18 jail or when he got out, parttime.

19 She doesn't believe he has a drug or alcohol problem.  
20 She lives with him, your Honor. The fact that he doesn't  
21 appear to have a drug or alcohol problem I think would increase  
22 the likelihood that he could live among the rest of us and not  
23 pose a threat.

24 She does not believe that he would pose a danger to  
25 the community. And I understand that it's a high burden. But

1 these are the two people that know him best. In their opinion,  
2 if they were involved in the conditions that were placed on  
3 him, they would actively be involved. They agree to be --  
4 actively be involved in his life. And, in fact, his common law  
5 wife or girlfriend, said that she would act as a custodian.

6 The Pretrial Service Report interviewed her and said  
7 that she would qualify as, I think as, a, I don't know if it's  
8 a custodian of -- that she would qualify in some capacity to be  
9 involved with his bond. That she met the criteria. And I  
10 don't have the report in front of me right now. But I think  
11 the Court still has its copy.

12 That's the proffer --

13 **THE COURT:** Okay.

14 **MR. FICKMAN:** -- argument.

15 (**Pause in the proceeding.**)

16 **THE COURT:** Let me -- Miss Collins, do you want to --  
17 to you want to go first before the -- do you want them all to  
18 present their proffers and then arguments differently? Or do  
19 you -- what's the most efficient way for you?

20 **MS. COLLINS:** Probably efficient for the Court would  
21 be just one argument.

22 **THE COURT:** Yeah. So why don't you make your  
23 argument, Mr. Fickman.

24 **MR. FICKMAN:** Okay.

25 Your Honor, addressing the testimony from yesterday,

1 just highlighting the points made by the -- that came out  
2 through the agent's testimony and not the -- the -- going into  
3 graphic detail, but just the high points.

4                 First, the information that was related to the Court  
5 today about the statement that was made. I saw this was a  
6 videotaped statement. There's an ongoing conversation between  
7 two agents and my client. This is a short blurb of the entire  
8 conversation. I have not had an opportunity to watch the  
9 entire tape. So I don't know the context.

10                 The words that were related to you by the Government,  
11 I believe that's an accurate recitation of the words that were  
12 said in that moment. There is no -- well, one could interpret  
13 it, certainly, it's not a good thing to say. But one could  
14 interpret it as non-specific, not enough to the words spoken  
15 for the Government to take action like go file charges or  
16 something like that.

17                 As I was pointing out when we were talking earlier  
18 that people say stupid things all the time that they don't  
19 actually mean.

20                 My client said that -- that he was going to do all  
21 this time. He wasn't going to let anybody play with him. And  
22 he'd end up killing somebody. Well, that's in the context of  
23 perhaps him trying to act tough. I don't know.

24                 But people say they're going to kill their boss all  
25 the time and they don't mean that. So I would ask the Court

1 not to put too much emphasis on those words.

2 As far as the actual evidence in this case, the agent  
3 testified that Mr. Goodley was not under investigation when  
4 this case began. There was no Title 3 on his phone. He was  
5 not a member of Free Money. That his voice did not appear on  
6 any Title 3 wiretap. And I think were, I believe the agent  
7 said there were a number of wiretaps in this case. I can't  
8 remember the number. I thought it was four or five. I stand  
9 corrected whatever the number was. But his -- his voice had  
10 not been identified on any of those wiretaps.

11 There was a firearm recovered in the vehicle, but the  
12 agent testified that my client was never observed to be in  
13 possession of a firearm. When my client was observed coming  
14 out of that house that supposedly the meeting was at, my client  
15 was observed, but was not -- without a gun in his possession.

16 The vehicle was driving and a gun was seen thrown out  
17 of the vehicle from the backseat is what the agent said. So he  
18 did not believe that that was done by my client.

19 At the time he was arrested, that is, my client, he  
20 didn't run, fight, or resist. He was, obviously, somewhat  
21 surrounded. So he didn't probably have much opportunity to do  
22 any of those things.

23 But there are people that will run, fight, and resist  
24 even if they're surrounded. He didn't do any of that. And, in  
25 fact, he agreed to sit down and talk to the agents, which

1 clearly he did, and which probably was -- I point out was  
2 uncounseled, which I think is -- is important. And I'm not  
3 saying they tricked him. I'm just saying that that's -- that's  
4 a factor for the Court's consideration.

5 In conclusion, I think that a conditions of release  
6 can be fashioned. This is a unique young man who is  
7 operating -- who has the intellectual ability to understand and  
8 comply. I don't think that because a person maybe has a higher  
9 IQ and can do well in a chess match should -- should -- they  
10 should be treated differently.

11 I'm simply trying to indicate that this is not a guy  
12 that's an idiot. This is a smart young man who finds himself  
13 in a bad place. But I think if he has rules to follow, that he  
14 would understand the rules. And based on the representations  
15 of his family members, I believe that he would follow those  
16 rules.

17 Now I understand that there's -- there's the  
18 presumption is hard to beat and hard to overcome. I submit  
19 that in this case that this is a young man that the Court could  
20 take a chance with.

21 **THE COURT:** Okay. Thank you, Mr. Fickman.

22 Mr. Carter?

23 **(Pause in the proceeding.)**

24 **(Voices speaking off the record.)**

25 **MR. CARTER:** Thank you, your Honor.

1               First off, I have a couple of proffers. My proffers  
2 were from the -- the parents. And I -- and there was actually  
3 another one, the girlfriend, and I don't -- I'm not sure if I  
4 informed them yet, the Government, about that yesterday. But  
5 the proffers are very similar. They are not here. They were  
6 here yesterday. But they're working today.

7               The first proffer would be from Demetria (phonetic)  
8 Ardoin, the mother. She works for Harris Health Systems. And  
9 she would sign on any -- any bond or any conditions that you  
10 were to give the Defendant in this case, if he were to be  
11 granted a bond.

12              The girlfriend is Dasja, D-a-s-j-a, Peters  
13 (phonetic), also known as Daisy. She works for security at  
14 Allied -- it's -- it's -- I'm not sure, but it's -- the  
15 company's Allied. I can't ready my -- my -- Allied Universal  
16 is what I believe it says. But that is the company where she  
17 does security. And she's been there for five years. And she  
18 said she would also be willing to sign on any kind of bond.  
19 And the father, similar.

20              Now, again, the -- the presumption is that there is  
21 no conditions that would guarantee the safety of the community.  
22 And so the presumption is that my client has to go to jail  
23 while this is pending.

24              But as I offered yesterday, is I think that that  
25 presumption is overcome because my client has been on -- on

1 community -- well, he's been on 24-hour house arrest on bond in  
2 State Court the same -- same offense back on 8/14/2022.

3 All right. So he has been on bond. And while he's  
4 been on bond, there have not been any violations from that  
5 Court. Now, to the Government's going to maybe argue that  
6 there's some violations. But that Court has not -- has not  
7 done anything, any -- any violations, be called into court for  
8 anything. And, in fact, they say he made all his court  
9 appearances. He's done everything that he's supposed to do.

10 But I'll -- I'll get to some of these other matters.  
11 So in that, he's on a 24-hour house arrest. So he can't leave  
12 the home. He lives in the home with his mother, his brother  
13 Terry, his co-Defendant, does not live there. So I think  
14 that's important for the Court to -- to recognize.

15 **(Pause in the proceeding.)**

16 **MR. CARTER:** His -- he has no prior history. No --  
17 no record. No criminal history.

18 He possessed a license to carry. And that's why  
19 he -- and with that license to carry, he had legally purchased  
20 that -- that weapon that was at his home. And it should be  
21 noted that he was truthful with Pretrial Services when they  
22 asked him, do you have weapons. And he said, "Yes."

23 Now the -- the circumstances in a State Court bond  
24 are very, very different. They -- you're in the courtroom.  
25 You appear. And the Judge says these are the things. And

1 then, you know, there's a laundry list, right?

2           But there's never any -- any question hey, you know,  
3 do you have a weapon? You need to surrender it. Give it to  
4 this person. Doesn't happen in State Court.

5           So he had a -- he had a gun. He had it. He had  
6 possessed it lawfully. And then when asked about it, he  
7 surrendered. He informed the -- the Government and it was  
8 surrendered.

9           **(Pause in the proceeding.)**

10          **MR. CARTER:** Now, there's other interesting things.

11          He was not -- he's not a gang member. There's no  
12 social media connecting him to this event. There's no wiretaps  
13 or intercepts connecting him to this event.

14          There is, of course, you know, the elephant in the  
15 room is extraneous that the -- that the Government had brought  
16 before the Court. And -- and, of course, you know, I  
17 understand the concern. But there -- there's also the fact  
18 that, you know, he hasn't been charged.

19          And the last time I checked, he's got a presumption  
20 of innocence. Especially in an event where he's not even been  
21 charged. So, I think that based on his presumption of  
22 innocence, he should not be held -- that should not be held  
23 against him. And he has not been charged, as well as, the fact  
24 that he has no prior criminal history. He's been on bond in  
25 State Court. And he's been compliant.

1           With that, your Honor. I'd like to yield the floor.

2           **THE COURT:** Okay. Thank you, Judge Carter.

3           Okay. Mr. Podolsky. And, Mr. Podolsky, just to  
4 remind you and I was looking that your client, and Terrell  
5 Davis face the -- the 924(c) related to the machine gun. And  
6 as you may know, that's a 30-year mandatory minimum.

7           **MR. PODOLSKY:** Yes. Yes.

8           **THE COURT:** Okay.

9           **MR. PODOLSKY:** I'm -- I'm reminded of that every time  
10 I look at the --

11           **THE COURT:** Okay.

12           **MR. PODOLSKY:** Your Honor, just -- and -- and I guess  
13 I can -- with regard to proffers, obviously, Judge, the -- the  
14 Pretrial Services Report is admitted. And that really -- that  
15 discusses, you know, his background, his links to the  
16 community. I know the Court had said flight is not the issue,  
17 it's the nature of the -- specific nature of the charges. And  
18 I get that, Judge.

19           So I will just -- just for purpose of the record, ask  
20 the Court to consider that information considered in the  
21 Pretrial Report, as far as his ties to the community, length  
22 being in the community.

23           Noted that while he wasn't employed at the time of  
24 his arrest, he had been previously employed this year and the  
25 previous year as in construction.

1                   And just getting to the facts, cause, obviously, this  
2 is a complaint. So probable cause is an issue. I'll start  
3 with the -- the proffer.

4                   As pointed out -- and -- and obviously we were at a  
5 bit of disadvantage yesterday. Because we were handed, you  
6 know, several reports during the hearing. And -- and while the  
7 Court did give us time, you know, the -- to attempt to review  
8 those, it was just not possible to marshal all those facts in  
9 such a short period of time. But -- but going with what we did  
10 go over, the proffer makes a lot of conclusory statements.

11                 Obviously, there was that issue regarding Mr. Brown  
12 being the driver of that vehicle, the black Alantra, where  
13 the -- the -- the Glock 19's with the automatic switches were  
14 found, which made the basis of those -- of that particular  
15 charge that, as the Court pointed out, carries the 30-year  
16 minimum sentence.

17                 So, let's talk about that, cause I really -- cause  
18 that is an important issue as far as probable cause.

19                 (**Pause in the proceeding.**)

20                 **MR. PODOLSKY:** According to the -- there was  
21 nothing -- no mention, anything about any surveillance of my  
22 client getting in that Alantra, or getting out of that Alantra,  
23 the black Alantra, or being anywhere near that Alantra within  
24 this proffer.

25                 And when pointed out to the -- the -- or the

1 detective in this case, then there was some testimony, well I  
2 saw it on some surveillance. Of course, which has never been  
3 further explored or offered by the Government.

4 And it -- it seems --

5 **THE COURT:** But -- but let me -- let me stop you.

6 So let me -- let me just say this to -- to everybody  
7 before I give you my critique of that, that the one thing I  
8 like about the federal system is the CJA Panel. And -- and I  
9 don't -- and hopefully the Defendants will appreciate like how  
10 lucky they are to have the three of you and they're facing  
11 these serious charges.

12 I think the three of you have done an excellent job.  
13 And they're getting you for free. Where the great thing about  
14 the federal system is -- is you all, you can't even get on the  
15 CJA panel unless you're experienced and you have private  
16 clients that you charge thousands of dollars. And that's --  
17 that's the good thing about the Defendants in this case is  
18 they're all in good hands.

19 And you faced a Herculean task yesterday of getting  
20 all this and proceeding with the hearing and not knowing where  
21 you're at. But the Government's in the same position as far as  
22 to me this proffer. I mean, they're putting together this  
23 proffer. And they're doing it at my request as quick as  
24 possible.

25 And you -- you have the agent. And -- and I can't

1 expect him to put or sorry, the detective, everything that he  
2 knows. He's putting these things in conclusory fashion so he  
3 can then be cross examined by you. And -- and we're at just  
4 the beginning of this case, you know.

5 It's not like we're at trial and he's putting  
6 together this as a trial exhibit. And to be honest, what I was  
7 telling the folks this morning, you know, normally the  
8 Government, and I've been a former prosecutor, they put up a  
9 witness that knows the least about the case because they're  
10 afraid of that person being cross examined and making  
11 admissions that are going to hurt them at trial.

12 And here they -- they put up Detective Bock. And in  
13 my experience, you know, he -- he knows a lot about this case.  
14 And he was more credible than, not to say that the other people  
15 aren't credible, they just don't know anything. And he knows a  
16 lot.

17 And so the -- the question is, to me, not what he put  
18 in there. It's whether, you know, we believe what he's  
19 saying's true, right? So he's saying that the basis of -- and  
20 I get your position is, is that the people on the ground that  
21 were conducting the surveillance only saw three. They didn't  
22 see four.

23 And he's saying cause that's all they saw. But then  
24 we have the -- the -- the plane in the air and the helicopter  
25 that's saying that there's video showing the four. But more

1 importantly, he's also saying there's a call from your client  
2 afterwards saying that he was the driver.

3 And so if you're asking me -- there's -- there's two  
4 issues. One, yes, you're kind of being, not intentionally, but  
5 you're getting ambushed because it's not in the report. But  
6 the question is, is, you know, is it true. And as we sit here  
7 today and me making a probable cause finding, I don't know how  
8 else -- how other I'd make that finding, based on the fact that  
9 he's saying that there's video surveillance. And more  
10 importantly, your client's own admission as to being the  
11 driver.

12 **MR. PODOLSKY:** Well, and Judge, I'm not -- what I  
13 understand this admission was, which was a surveillance of him  
14 saying I just wrecked the Stollo (phonetic).

15 **THE COURT:** Right.

16 **MR. PODOLSKY:** Which car that is, I mean, I don't  
17 know if that was established. But that's the line that I heard  
18 into evidence yesterday.

19 **THE COURT:** Okay.

20 **MR. PODOLSKY:** Now obviously, you -- the Court will  
21 and should make reasonable inferences from that.

22 **THE COURT:** Right.

23 **MR. PODOLSKY:** I -- I get that.

24 **THE COURT:** Right.

25 But -- but ultimately, I have to do it for the sake

1 of probable cause in determining the strength of the case.  
2 But -- but my opinion really doesn't matter. It's really what  
3 12 jurors, if this case is going to go to trial, you know, what  
4 is common sense and reason tell them. Does that statement mean  
5 that he was driving some other vehicle at some other place, or  
6 the vehicle in question in this case, you know.

7 And so if you ask me, I'd say -- and I haven't heard  
8 this. I'm just basing this on what the detective is saying is,  
9 is, you know, my -- my reasonable inference is he's talking  
10 about this vehicle.

11 **MR. PODOLSKY:** And -- and my only response, Judge,  
12 and I -- I completely understand where the Court's coming from,  
13 is that this didn't happen October 14<sup>th</sup>. This happened August  
14 14<sup>th</sup>.

15 They've had more than two months in preparation for  
16 this complaint, for these arrests, for this hearing. I mean --

17 **THE COURT:** Okay. But -- but on this --

18 **MR. PODOLSKY:** -- cause everyone --

19 **THE COURT:** -- but on this proffer.

20 So the way I do things is I -- they only had whenever  
21 to put together that proffer a short amount of time.

22 And so, the question is, is what should he put in  
23 that -- what should he put in that proffer, and to me I can't  
24 really take, I mean, he's putting what -- he's putting there --  
25 he's putting the -- what he thinks the conclusion is. And --

1 and your, you know, your position is he should have put more of  
2 the basis for that conclusions.

3 And so --

4 **MR. PODOLSKY:** Or at least presented the Court with,  
5 you know, evidence, you know, to support that conclusion.

6 I under -- because it -- it's different than if this  
7 was an indictment. If this was an indictment --

8 **THE COURT:** Right.

9 **MR. PODOLSKY:** -- you know, there's no probable  
10 cause. It is what it is. And it's really just about danger to  
11 the community and -- and -- and flight risk.

12 But it is a complaint. And so, you know, they do  
13 have to meet, you know, a -- a probable cause standard. And  
14 that's -- that's why I'm --

15 **THE COURT:** Okay.

16 **MR. PODOLSKY:** -- I'm bringing is to the Court's  
17 attention.

18 The -- the -- the Court heard the evidence that they  
19 never saw Mr. Brown with the gun. They never saw Mr. Brown  
20 exchanging guns as they did other Defendants that day. And out  
21 in front of the XXXXXX address.

22 They never saw him handling a gun or -- or exchanging  
23 guns. They never saw him with a gun inside the vehicle. Or  
24 I -- I imagine if they had -- if their surveillance is as good  
25 as able to identify him, that, you know, they didn't mention

1 anything about his holding a gun as he was running away after  
2 wreck if, in fact, he was there.

3 They never saw him get in the vehicle, or arrive in  
4 the vehicle. There was no evidence that he was associated with  
5 driving that vehicle any time prior. And apparently, they had  
6 been watching that house and him for several months prior to  
7 this happening.

8 That's, you know, those are all -- and certainly,  
9 those are going to be issues that we will, I'm sure, hash out  
10 down the road. But for purposes of today, and for purposes of  
11 the decision that Court has to make, I would be remiss if I  
12 didn't point that out.

13           **THE COURT:** And I don't want you to think any -- what  
14 I'm saying is not a critique of you. It's that --

15           **MR. PODOLSKY:** I -- I don't.

16           **THE COURT:** Right. okay.

17           **MR. PODOLSKY:** I just --

18           **THE COURT:** I want that to be clear. I'm not  
19 critiquing you. You're doing the best you can with the  
20 evidence you have. And you're making all the arguments I'd be  
21 making if I was standing where you are.

22           **MR. PODOLSKY:** I appreciate that.

23           **THE COURT:** Okay.

24           **MR. PODOLSKY:** And -- and, you know, all of here  
25 are -- have been --

1                   **THE COURT:** I mean, you have a really difficult job.  
2 And so I don't want anything I say, I -- I know how difficult  
3 your job is. And you're taking --

4                   **MR. PODOLSKY:** I -- I get it, Judge.

5                   **THE COURT:** -- this appointment.

6                   **MR. PODOLSKY:** I'm not taking this --

7                   **THE COURT:** Okay.

8                   **MR. PODOLSKY:** -- as a critique of my work.

9                   What I -- what I do understand is that, given the  
10 nature of the charges, that certainly the -- the particular  
11 background of each -- each Defendant, particularly in my case,  
12 Mr. Brown, it's a -- it's a hurdle, a -- a rather high one.  
13 And I get that.

14                  (**Pause in the proceeding.**)

15                  **MR. PODOLSKY:** The -- I would just also like to point  
16 out, I mean, obviously, they've had over two months prior to  
17 come in today. There's been no representation of any forensic  
18 evidence, even fingerprints. Those can be returned within  
19 days.

20                  I know, we all know, as anybody that's been a defense  
21 or a -- certainly a prosecutor know that DNA evidence can come  
22 back expedited if need be. None of that has been presented to  
23 the Court to link my client to any of the guns or even inside  
24 that vehicle.

25                  And -- and, Judge, so that -- that's my position as

1 far as probable cause on the -- the gun case. As -- and as you  
2 heard from the testimony from the detective, that he was not a  
3 participant in any of the phone calls or messages that  
4 specifically talked about hitting a lick, or 10P, or 3  
5 automatics, or anything of that nature. He was not a party to  
6 those conversations, according to the Government's evidence.

7 And that that address where they met at, they all --  
8 these same Free Money individuals would go there to do rap  
9 videos and to perform. And that was -- they had witnessed that  
10 themselves. And as I understand the testimony from social  
11 media, they knew that that had happened on other occasions as  
12 well.

13 There was some talk -- now with regard to the drugs.  
14 As I understand it, the -- a -- a search was done of the drugs  
15 last Friday, if -- and I think I'm correct on that when they  
16 executed the warrants on this case.

17 And my client apparently, according to the testimony,  
18 had been in that house prior to the execution of the warrant,  
19 was not present when the warrant was executed. And were there  
20 two other individuals, one on parole, the other one with  
21 criminal history. Two males were inside that -- that home.

22 And that -- and then there were drug -- there were a  
23 hundred grams of drugs, of cocaine found. That's what the  
24 Court was told as far as that day and that arrest. There was  
25 no information about any particular links to that drug, what

1 room it was in, was it near some -- was it in a drawer that  
2 also had mail or -- or personal belongings that they could  
3 associate with the Defendant. I mean, we don't even know where  
4 it was found, as I understand it, inside of that -- of that  
5 home.

6 Was it, you know, sitting on the couch next to the  
7 other two guys. Was -- was, you know, of course once again, no  
8 forensics to -- no real links. It is a probable cause standard  
9 but there has --

10 **THE COURT:** Right. But -- but -- but they're also  
11 charging the drugs as a conspiracy and not as a possession, you  
12 know. So it's -- so there is a --

13 **MR. PODOLSKY:** Okay.

14 **THE COURT:** -- difference, you know.

15 **MR. PODOLSKY:** Well I get that. But, I mean, he  
16 still has to be part of the conspiracy.

17 **THE COURT:** Right.

18 **MR. PODOLSKY:** There still has to be some overt acts  
19 to link him to the conspiracy with that particular drugs.

20 I mean, it's -- it's two -- two and a half months,  
21 almost two and a half months after the circumstances that  
22 surrounded the arrest, or the alleged conspiracy to commit  
23 robbery.

24 And I didn't hear any evidence that those two  
25 individuals that, I guess were released and not charged, even

1 though they were in the home with -- I mean, if you're there  
2 with the drugs and you don't get charged, what does that say  
3 about the guy that wasn't there?

4           **THE COURT:** Well, I don't -- I mean, there could be  
5 other reasons why there's not charging.

6           **MR. PODOLSKY:** And it certainly could.

7           **THE COURT:** Right.

8           **MR. PODOLSKY:** But -- or there wasn't any evidence  
9 that those two individuals were part of the Free Money Gang, or  
10 associated, or how they may or may not have been associated  
11 with Mr. Brown. None of that was brought to the Court's  
12 attention.

13           And if they made the strategic decision to not  
14 provide that today for whatever reasons, well, you know, I mean  
15 that's the decision that the Government made. And -- and once  
16 again, there's still a probable cause standard.

17           And, Judge, I would -- and I guess in -- in  
18 summation, I would say that, Judge, stepping away from the  
19 flight risk, and the links to community, and all that, I  
20 recognize that he has some criminal history, most, as far as I  
21 can tell of note particularly, and I know the Court has this  
22 report in front of them.

23           **(Pause in the proceeding.)**

24           **MR. PODOLSKY:** A robbery from 2012 when he was 17.  
25 The other ones, there's -- there's some other what I would

1 consider more minor offenses, a credit card abuse case, that  
2 may have been pled down if he got one year state jail, or  
3 I'm -- I'm not sure how that was pled out. But I think credit  
4 card abuse in State Court is a third degree. And he was given  
5 state jail. So they had to have pled that down.

6 And then I know that the unlawful use of a criminal  
7 instrument was reduced as well. And then I guess he's got an  
8 unlawful possession of a firearm by a felon pending in  
9 Galveston County.

10 Judge, I would ask the Court just consider the  
11 evidence that's -- that the Government to provide the Court  
12 today knowing that this was still a complaint. I would ask the  
13 Court consider release of my client pending trial.

14 I understand the presumptions. But from a fact  
15 standpoint, a probable cause standpoint, I -- I would -- I  
16 would think that the Court could fashion a -- a set of  
17 restrictions and set of bond conditions that could protect the  
18 community and insure his presence throughout these -- this  
19 process, Judge.

20 **THE COURT:** Okay. Thank you.

21 Miss Collins?

22 **MS. COLLINS:** Yes, your Honor.

23 Do you wish for me to argue probable cause or  
24 strictly detention?

25 **THE COURT:** Both.

1           **MS. COLLINS:** Yes, your Honor.

2           **THE COURT:** Just respond then to Mr. Podolsky's  
3 points.

4           **MS. COLLINS:** Absolutely, your Honor.

5           There -- couple of corrections I want to make from  
6 what Mr. Podolsky stated.

7           **THE COURT:** Can you make sure you're under a  
8 microphone so everyone can hear.

9           **MS. COLLINS:** Absolutely.

10          **THE COURT:** Okay.

11          (**Pause in the proceeding.**)

12          **MS. COLLINS:** Starting with the fact that Markel  
13 Brown was, In fact, on several calls, at least two that I can  
14 think of off the top of my head that are -- are included in the  
15 proffer where he is speaking on the phone, which is  
16 intercepted, to the others involved talking about not just the  
17 job, but that he is part of the crew that is recruiting others  
18 to participate in that job, which makes sense as a member of  
19 Free Money who lives at that location and is over that -- that  
20 territory, if you will.

21          Furthermore, as you've heard, I -- I think the  
22 evidence is, in fact, clear about the fact that he was in a  
23 vehicle, the driver of the vehicle, with the individuals who he  
24 has recruited who have three Glock switches in that vehicle at  
25 least that we know of, along with whatever he escaped with as

1 he was not arrested that night.

2 And I would argue, your Honor, that whether or not he  
3 himself held a gun, this is a conspiracy case. And as an  
4 individual who on the phone calls is admitting to recruiting  
5 those involved, whether or not he held a firearm with a Glock  
6 switch or not, is a moot point I would argue to the Court.

7 Because as a party to this conspiracy, he is, in  
8 fact, taking control of that conspiracy, along with Jcoi Barley  
9 and Terry Ardooin.

10 And so, I would submit to the Court that it doesn't  
11 really matter whether or not he is -- is one of the men  
12 actually holding the gun. He is the one putting those men in  
13 the car to have those guns in the first place.

14 Furthermore, as you've heard, the Defendant himself,  
15 Markel Brown, stated he was the driver of the Stollo that just  
16 crashed out. I know that the Court has read the proffer fully,  
17 which states that that black Equinox was a stolen vehicle.  
18 That is, in fact, why it was pulled over that night, or -- or  
19 stopped on traffic.

20 And so it's clear that the only Stollo there is the  
21 one in which he is seen fleeing from and therefore confesses  
22 to.

23 I believe that covers Mr. Podlosky's points, unless  
24 you have -- the Court had any questions for me.

25 **THE COURT:** Yes. He -- he was making the point about

1 tying the drugs to the conspiracy.

2           **MS. COLLINS:** Well --

3           **THE COURT:** If the drugs are found in October, how  
4 are they related to the conspiracy in August.

5           **MS. COLLINS:** And -- and I -- I would submit that  
6 they're two different issues.

7           Ultimately, the -- the August 14<sup>th</sup> conspiracy with  
8 regard to drugs, was to steal the drugs from Ratchet (phonetic)  
9 Man as they make clear on the phone calls.

10          The conspiracy is to steal those drugs, which they  
11 state are pounds of drugs from Ratchet Man to then sell and  
12 make a profit off of, separate and apart from the drugs that  
13 are then found in his home upon the execution of the search  
14 warrant.

15          But moreover, I would submit that that is simply a  
16 detention issue. Has nothing to do with the elements of the --  
17 the underlying complaint offenses. And I would also submit to  
18 the Court that as we've heard from Detective Bock, there are, I  
19 believe he said, approximately 50 separate phone calls in which  
20 Markel Brown is discussing the sale of drugs.

21          Furthermore, he stated that they had surveillance on  
22 XXXXXX, the place that he was living and residing, where drug  
23 transactions were occurring. So, I -- I think it's minding  
24 words, if you will, whether or not that particular -- the drugs  
25 found that day were his or not.

1           I would submit to the Court that either way he is  
2 while on bond participating in the sale of drugs, which is a  
3 law violation, which is clearly against the bond conditions  
4 that he's been given.

5           **THE COURT:** Okay. Move on to the -- to detention as  
6 to each of them.

7           **MS. COLLINS:** Yes, your Honor.

8           First, again, with regard to Markel Brown. Defense  
9 counsel mentioned that he was very young at the time that he  
10 received that first aggravated robbery. And I would suggest  
11 that that is, in fact, why he was given an opportunity in the  
12 form of an eight-year probation, which he then violated. And,  
13 therefore, was sentenced to five TDC.

14           And not -- less than six years -- about five years  
15 later, he's once again facing another felony offense for which  
16 he receives a year of state jail. And then a year later is,  
17 again, in felony court with another year of state jail. And  
18 then he has the felon in possession, for which he's on bond for  
19 and has been continuously on bond since January of 2022, while  
20 he is talking about selling drugs on wire intercepts, as well  
21 as committing the events of August 14<sup>th</sup>.

22           So I think his actions speak for himself. That he  
23 doesn't care about the conditions that he's given, and will not  
24 follow those conditions, whether it's State Court or Federal  
25 Court, your Honor.

1                   As to Trevonte Ardoин. Again, I submit that all of  
2 the families of these men love them, and care about them, and  
3 would do everything they could for them. And I believe that  
4 they have, and that they have family members who are, in fact,  
5 a part of their lives. And, unfortunately, just have not been  
6 able to restrain these Defendants and prevent them from  
7 committing criminal activity.

8                   Trevonte himself states that he's been living at  
9 XXXXXX XXXX where his parents live. And unfortunately, they --  
10 they haven't been able to hamper his activities. And I don't  
11 believe that there's any evidence that that would change if he  
12 were released today.

13                   Obviously, the issue becomes the fact that he is also  
14 on bond. Putting that 45 Glock that's found at his house  
15 aside, we've heard testimony that there are intercepts after he  
16 makes bond, after he is told he is not allowed to possess  
17 firearms, where he is looking actively for a replacement  
18 firearm, a replacement rifle. So again, violating the  
19 conditions that he's been given.

20                   And then on top of that, obviously, the fact that  
21 we've heard testimony and in the form of the proffer that  
22 the -- that Detective Bock watched the video surveillance of  
23 the homicide that was committed, was able to ID Travonte and  
24 Terry Ardoин by name and sight as the individuals committing  
25 that homicide. And I just -- there's obviously no greater

1       criminal enterprise than that.

2                 Finally, as to Emery Goodley. This is -- I would  
3 submit to the Court we don't often see someone who has -- has  
4 all the opportunities, is given all the chances in life, has  
5 the smarts to accomplish great things in life. And yet, as he  
6 has made clear by his own admissions in his statement, the life  
7 he has chosen is one of a gang lifestyle.

8                 He stated, you know, I should be locked up. If  
9 released, I will just do more of the same. He has told this  
10 Court exactly how he will behave.

11                 Furthermore, when we look at his background, at the  
12 age of 15, he's certified I --as -- as -- as an adult. And I  
13 think that that speaks volumes to the fact that he is already  
14 acting in such a way that the Harris County criminal sentence  
15 would be that of an adult and given five years -- six years in  
16 TDC for the aggravated robbery that he committed.

17                 He has literally barely been out in 2019 when he is  
18 committing an assault for which he receives 90 days. And then  
19 I would point out that the carrying a weapons charge that he  
20 received, should have been a felon in possession. It should  
21 have been a felony offense as he is a felon in both the state  
22 and federal systems.

23                 And yet, he is again just doing what he wants, along  
24 with the activities that occurred on August 14<sup>th</sup> of this year.

25                 **(Pause in the proceeding.)**

1                   **MS. COLLINS:** And again, defense counsel pointed out  
2 the fact that no one saw him possessing a firearm in his hand  
3 at the time that he leaves the residence at XXXXXXXX.

4                   But we've heard testimony that he is gloving up.  
5 He's putting a mask on. He clearly knows what he is about to  
6 go do. And furthermore, when they find him, and get him out of  
7 his seat, in plain view is a Mack (phonetic) Ten rifle right  
8 next to where he's sitting.

9                   He was in a position, despite being given every  
10 opportunity, ready to go, smash in a door, and kill someone if  
11 necessary. That's the lifestyle he's chosen.

12                  And because of that, I would argue that all three of  
13 these men are a threat and danger to the community. And that  
14 there is no condition or combination of conditions that can  
15 insure the safety of the citizenry.

16                  **THE COURT:** Okay.

17                  **MR. CARTER:** Just --

18                  **THE COURT:** Sure go ahead.

19                  **MR. CARTER:** If I may, your Honor. I believe she  
20 misspoke.

21                  Because she stated that basically having a  
22 conversation about a weapon is a violation of bond. And it is  
23 not. It might be something that concerns you, but the record  
24 should be clear that that's not a violation of bond or its  
25 conditions.

1                   **THE COURT:** Well let me just say. I mean, I -- I  
2 don't want to get too far in the weeds.

3                   But my understanding is she's saying that he's  
4 talking on wiretaps after he was placed on the August bond of  
5 purchasing other firearms. And so you're saying that that  
6 wouldn't be -- if his -- cause -- cause I'm looking at his  
7 conditions from the August 14, 2022 is that, "Defendant must  
8 not use or possess a firearm."

9                   **MR. CARTER:** Correct. And so I'm saying having a  
10 conversation about firearm is not a violation of those  
11 conditions.

12                  **THE COURT:** But what if he's talking about -- and --  
13 and you would know more, cause you dealt with this for many  
14 years.

15                  But I'm saying, let's just say hypothetically, cause  
16 I don't listen to these tapes, that he's talking about  
17 purchasing other firearms, or using other firearms, that's what  
18 I understood Miss Collins to be representing that -- would that  
19 be a -- a violation of is bond.

20                  Not just casual conversations about guns, but  
21 actually going out and purchasing other guns to replace a gun  
22 that was seized, would that be a violation?

23                  **MR. CARTER:** I personally do not believe that's a  
24 violation. But I'm not saying that that's not a concern of the  
25 Court.

1           **THE COURT:** Okay.

2           **MR. CARTER:** It's all I'm saying.

3           And I don't think that you disagree with that.

4           **MS. COLLINS:** I do not.

5           I am not arguing that he has violated just by the  
6 mere conversation. But in making the point that despite being  
7 told he is not allowed to have guns, he is still going and  
8 actively stating that he is looking for a firearm to purchase.

9           **THE COURT:** Okay. Understood.

10          **MR. CARTER:** Just for clarity, your Honor.

11          **THE COURT:** Okay.

12          **MR. CARTER:** Thank you.

13          **THE COURT:** Does anybody else want to say anything  
14 else before I --

15          **MR. FICKMAN:** I do, your Honor.

16          **THE COURT:** Okay. Go ahead, sir.

17          **MR. FICKMAN:** The statement was made about my client  
18 that gun was at his feet and could have gone in and killed  
19 somebody with it. Well, that did not occur.

20           He was arrested, did not resist. The firearm was at  
21 his feet. There's no indication that he reached for that  
22 firearm. I just want to make that clear.

23          **THE COURT:** Okay.

24          **MR. FICKMAN:** Anything can happen in this world, but  
25 that didn't happen. He surrendered.

1                   **THE COURT:** Okay.

2                   **MR. FICKMAN:** Thank you.

3                   **THE COURT:** Go ahead.

4                   **MR. PODOLSKY:** Judge, as -- for what it's worth, I --  
5 I believe Miss Collins testified that -- that Mr. Brown was  
6 part of conversations, text messages, or social media  
7 indicating the commission of a crime.

8                   As I recall the testimony, I asked the detective  
9 specifically about that. That, and my understanding is, that  
10 the answer was he -- he was not part of the conversations they  
11 were discussing criminality. But just in general about a  
12 meeting this afternoon, everyone needs to be there. But it  
13 wasn't -- there were no specifics about what that meeting was  
14 for, or what they were going to do when they got there, or what  
15 they were planning.

16                  He was not a part of those conversations -- those  
17 conversations where they were talking about Ratchet Man,  
18 hitting a lick, 10P, 3 automatics. Those were with other of  
19 the co-conspirators, alleged co-conspirators.

20                  And as I understand the testimony, and I could be  
21 incorrect, but as I heard the testimony that the detective  
22 testified that he -- Mr. Brown was not part of those  
23 conversations or included in those messages.

24                  You know, that's -- that's my position, your Honor.

25                  **THE COURT:** Okay.

1                   **MS. COLLINS:** I believe the proffer speaks for  
2 itself.

3                   **THE COURT:** Okay.

4                   So, I -- I'm going to repeat what I said this  
5 morning. And I -- and I apologize for the folks that are here  
6 and -- and hear the same thing I'm going to say this morning.

7                   But these decisions are never easy for a Magistrate  
8 Judge. Deciding bond is probably one of the most -- probably  
9 one of the most difficult decisions that we have to make,  
10 determining whether someone remains in custody or they're  
11 released on bond.

12                  After today I won't have any other involvement in  
13 your case. Your case will probably go to a Grand Jury. And  
14 then it's assigned to a District Judge. And so my only job  
15 today is -- is to find, you know, determine probable cause and  
16 then decide the bond issue.

17                  As to probable cause, I do believe that the  
18 Government has proven probable cause as to each of the  
19 Defendants here. But -- but understand that just because I'm  
20 finding probable cause it -- it's really meaningless in the  
21 sense that at this stage, there's really no rules of evidence.  
22 Hearsay's allowed. I'm making a determination whether it's  
23 based on a reasonableness.

24                  Versus at trial, there's strict rules of evidence.  
25 The -- the standard of proof is beyond a reasonable doubt. And

1 it's 12 people making that decision. So just because I found  
2 probable cause doesn't necessarily meant that -- that all four  
3 of you are guilty of the crime.

4 Now as to the bond, you know, I can tell you my  
5 decision. But -- but I think, and I'll give you a one minute  
6 of, you know, the lens that I look at these cases is that, you  
7 know, I've been practicing law for 25 years.

8 Before I became a judge, my career was evenly divided  
9 between civil and criminal. But between the criminal it was  
10 half as a prosecutor and half as a defense attorney. But other  
11 than being married and having three kids, my proudest  
12 accomplishment in life is I represented pro bono six federal  
13 defendants that were serving life sentences who are now free.

14 And so when I was doing that work, I spent hundreds  
15 of hours in federal prison. And I -- and I spent time with  
16 folks like you. But I saw them on the back end after they  
17 already served 20 or 30 years.

18 And -- and for all these people, the same arguments  
19 that Miss Collins made were -- were right at that time. But I  
20 saw people make tremendous changes where when they served this  
21 amount of time, they had zero infractions. And they -- they  
22 just did incredible things in federal prison to merit getting a  
23 second chance and convincing people.

24 And so it -- it's not easy when we look at -- when we  
25 look at you, Mr. Goodley, that -- like to play chess, like I

1 could never play chess cause I'm not smart enough to play those  
2 moves, or even understand the game.

3 And so it's -- it's tremendous sadness. It's there  
4 for you, you know, that -- that -- that deep down it's there  
5 that -- that you have that intelligence. And it's just going  
6 to be -- it's just going to be your choice going forward  
7 what -- what you want to do in life.

8 But -- but you have that ability. And -- and I don't  
9 ever give up on people, you know. But -- but it's -- but you  
10 and -- and everybody else are going to have to make that  
11 decision of -- of what you want to -- what you want to be in  
12 life. Cause it -- it's just not worth what we're seeing here.

13 And -- and as I said before, what the detective's  
14 testimony, I mean, to me, this is a pretty strong case. You  
15 know, you -- you all are going to decide what you want to do.  
16 And the great thing about the Constitution is you have that  
17 right to go to trial and let 12 people decide.

18 But me just sitting here looking at this case, just  
19 as quickly as your attorneys, that it's not every day in every  
20 case that we have wiretaps, and we have pole cams, and we have  
21 airplanes and helicopters.

22 That's just uncommon. It just makes their job a lot  
23 harder at -- at -- at trial. And the stakes in these cases are  
24 so high because, like with Mr. Podlosky's client, I mean, just  
25 the -- the machine gun. We're not even talking about the drugs

1 or other stuff, 30-year mandatory minimum.

2 This isn't a state case. If you're convicted of that  
3 charge, you're going to do 85 percent of that time. That --  
4 that's a minimum of, I'm not a math major. That's why I went  
5 into law school. But I think it's about 24 years in prison or  
6 more. And that's a lot of time.

7 And that's the time that you're all -- you're all  
8 facing in this case. It's just, you know, between the 924(c),  
9 the gun, and the mandatory minimum on drugs, it's a lot of  
10 time. But as I said before, I don't give up on people. And  
11 you have the ability to -- to make that change.

12 But I, you know, me sitting here, and reviewing this,  
13 and looking at all the reports, I -- I don't believe any of the  
14 Defendant have -- have overcome that presumption because of  
15 the -- the seriousness of the case that we're talking about,  
16 just this case.

17 And then -- and I know that he hasn't been charged as  
18 far as Mr. Ardooin. But, I mean, we have a detective testifying  
19 that he -- that there was a shootout and someone was shot. And  
20 he's seen the video. And Mr. Ardooin's going to the hospital  
21 after he was shot in the shootout that to me the evidence is --  
22 is pretty strong in -- in this case as to what was going on.

23 And then you combine that with the -- the criminal  
24 histories. And as Miss Collins says, you know, your families  
25 love you and -- and as Mr. Fickman got up and -- and the people

1 that he's addressing are all strong characters. But the case  
2 isn't -- the case isn't against your family and how strong  
3 character are. It's about you all.

4 And so, again, you know, it's not easy me telling you  
5 you're going to be detained. But I -- I felt like by telling  
6 you this that there's some explanation on my part.

7 So again, I find the Government's shown probable  
8 cause. And as to the three Defendants, the presumption has not  
9 been met.

10 Let me start with Judge Carter. Anything else I need  
11 to address?

12 **MR. CARTER:** No, your Honor.

13 **THE COURT:** Okay.

14 **MR. CARTER:** Thank you for your patience.

15 **THE COURT:** Okay. Mr. Podolsky?

16 **MR. PODOLSKY:** No, sir.

17 **THE COURT:** Okay. Mr. Fickman?

18 **MR. FICKMAN:** No, sir. No, your Honor.

19 **THE COURT:** And Miss Collins.

20 **MS. COLLINS:** No, your Honor.

21 **THE COURT:** Okay. Thank you all.

22 Good luck, gentlemen.

23 **This proceeding was adjourned at 02:28 p.m.)**

24

25

\* \* \* \* \*

1

2 CERTIFICATION

3 I certify that the foregoing is a correct transcript from the  
4 electronic sound recording of the proceedings in the above-  
5 entitled matter.

6 /s/Cheryl L. Battaglia

April 4, 2023

7 Transcriber

Date

8 4:22-CR-577-8

9 10/27/22 - 04/04/23